

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MICHAEL TROY MOORE, et al.,

Plaintiffs,

v.

THE STATE OF NEVADA, et al.,

Defendants.

Case No.: 2:20-cv-01922-JAD-EJY

ORDER

Pending before the Court is *pro se* Plaintiff's Motion to Reverse National Labor Relations Board Denial of Jurisdiction of Unfair Labor Practice Regarding in this Matter and Compel National Labor Relations Board to Investigate Employee Status of Plaintiff with Joint Employer. ECF No. 16. Also pending is Plaintiff's Answer to Courts Request for Certification of CM/ECF and Motion Asking the Court to Proceed with the Complaint. ECF No. 17.

On November 13, 2020, the Court entered a Report and Recommendation, recommending that all claims filed by all Plaintiffs be dismissed with prejudice because amendment of the claims would be futile. ECF No. 5. The recommendation arose from the determination that claims against the State of Nevada, the Nevada Department of Employment, Training, and Rehabilitation are immune from suit. *Id.* The Court further recommended that the Americans with Disabilities Act claims against Governor Sisolak be dismissed with prejudice because there is no set of facts that could be alleged that would render the claim viable. *Id.* Plaintiffs objected to the Court's Report and Recommendation on November 16, 2020. ECF No. 7. The Objection and Report and Recommendation are pending at this time.

The National Labor Relations Board ("NLRB") is not a party to this suit. For this reason alone, the Court has no authority to act on Plaintiff's Motion seeking an order to compel the NLRB to do anything. Further, in *Myers v. Bethlehem Shipbuilding Corp.*, 303 U.S. 41 (1938), the U.S. Supreme Court held that Congress' exclusive grant of jurisdiction to the NLRB preempts the district court's general grant of jurisdiction and precluded district court review of NLRB proceedings. *See*

1 *also International Association of Machinists and Aerospace Workers, AFL-CIO v. Lubbers*, 681 F.2d
2 598, 601-02 (9th Cir. 1982).

3 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion to Reverse National Labor
4 Relations Board Denial of Jurisdiction of Unfair Labor Practice Regarding in this Matter and Compel
5 National Labor Relations Board to Investigate Employee Status of Plaintiff with Joint Employer
6 (ECF No. 16) is DENIED.

7 IT IS FURTHER ORDERED that Plaintiff's Motion Asking the Court to Proceed with the
8 Complaint (ECF No. 17) is DENIED as moot.

9
10 Dated this 24th day of March, 2021.

11
12 
13 ELAYNA J. YOUCHAH
14 UNITED STATES MAGISTRATE JUDGE
15
16
17
18
19
20
21
22
23
24
25
26
27
28